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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,308	01/30/2004	Richard Wayne Buskens	LUC-450/Buskens 6-1-1-1-2	6327
32205	7590	11/23/2010	EXAMINER	
Carmen Patti Law Group, LLC One N. LaSalle Street 44th Floor Chicago, IL 60602				
			ART UNIT	PAPER NUMBER
			2191	
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			11/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/768,308

Applicant(s)

BUSKENS ET AL.

Examiner

PHILIP WANG

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2010.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9 and 11-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

Detail Action

1. This office action is in response to the amendment filed on 10/21/2010.
2. Per Applicant's request, claims 1, 16 and 21 are amended.
3. The 35 USC 112 rejections of claims 1-9, and 11-22 have been withdrawn in view of the Applicant's amendment to the claims.
4. Claims 1-9, and 11-22 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9, 11, 16 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhou et al. (herein, Zhou, 2004/0153624).

As per claim 1, Zhou discloses

- a first manager component of that performs one or more first management operations on a software and/or hardware entity ; and

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- **a second manager component that performs one or more second management operations on the software and/or hardware entity, wherein the second manager component comprise high availability services system software operating in a high availability domain** (see Fig. 4, HAM 122A and HAM 122S for first manager component and second manager component, where the HAMs are high availability managers);
- **wherein the first management component is configured to operate outside of the high availability domain and the second management component is configured to operate within the high availability domain** (referring to Fig. 4, where 122A operates in active domain and 122S operates in standby domain, therefore, 122A is considered outside of the domain of 122S);
- **wherein the first manager component and the second manager component are configured to concurrently share management responsibilities for the software and/or hardware entity** (see Fig. 4, where 122A and 122S concurrently manage, for example, component Z.); **wherein the first manager component and the second manager component are configured for individual management responsibilities** (122A has individual responsibility as being active, 122S has individual responsibility of being standby.).

As per claim 2,

the rejection of claim 1 is incorporated;

further Zhou discloses

- **the first manager component and the second manager component are communicatively coupled** (see Fig. 4)

As per claim 3,
the rejection of claim 2 is incorporated;
further Zhou discloses

- **the first manager component and the second manager component coordinate the one or more first and second management operations to occur in a proper sequence** ([0040], [0045] see synchronizing, the synchronization coordinate operations in proper sequence.) .

As per claim 4,
the rejection of claim 1 is incorporated;
further Zhou discloses

- **upon detection by the first management component of an event associated with the software and/or hardware entity, the first manager component sends a notification to the second manager component; wherein upon detection by the second management component of an event associated with the software and/or hardware entity, the second manager component sends a notification to the first manager component** ([0050], for detection of failure and TAKE_OVER messages sent.) .

As per claim 5,
the rejection of claim 1 is incorporated;
further Zhou discloses

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- **the software and/or hardware entity comprises one or more software and/or hardware components; wherein the first manager component starts up the software and/or hardware entity and the one or more software and/or hardware components; wherein the first manager component sends a notification to the second manager component to indicate that the software and/or hardware entity and the one or more software and/or hardware components have been started ([0062], see "request start"...").**

As per claim 6,

the rejection of claim 5 is incorporated;

further Zhou discloses

- **the second manager component initializes one or more of the one or more software and/or hardware components; wherein the second manager component sends a notification to the first manager component to indicate that the one or more of the one or more software and/or hardware components have been initialized (see [0051], shows HAM122S taking over controls.).**

As per claim 7,

the rejection of claim 1 is incorporated;

further Zhou discloses

- **the software and/or hardware entity comprises one or more software and/or hardware components; wherein the first and second manager components**

cooperate to initialize, monitor, and detect one or more failures of the software and/or hardware entity and one or more of the one or more software and/or hardware components, wherein the first and second manager components dynamically negotiate the individual management responsibilities. ([0050]–[0052]).

As per claim 8,
the rejection of claim 7 is incorporated;
further Zhou discloses

- **the first and second manager components cooperate to recover the software and/or hardware entity from the one or more failures ([0053], “... a recovery process...”).**

As per claim 9,
the rejection of claim 1 is incorporated;
further Zhou discloses

- **the first manager component sends a request to the second manager component to cause the second manager component to perform a management operation of the one or more second management operations on the software and/or hardware entity ([0050], “...message sent by the active CP to the standby...”).**

As per claim 11,

the rejection of claim 1 is incorporated;
further Zhou discloses

- **in combination with the software and/or hardware entity, wherein the software and/or hardware entity operates outside of the high availability domain, wherein the high availability services software comprised the one or more second management operations; wherein the software and/or hardware entity interacts with the high availability domain (see Fig. 4) .**

6. Claims 1-9, 11-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (USPGPub. No. 2003/0058796).

As per claim 1, 16, and 21, Anderson discloses

- **a first manager component of that performs one or more first management operations on a software and/or hardware entity ; and**
- **a second manager component that performs one or more second management operations on the software and/or hardware entity, wherein the second manager component comprise high availability services system software operating in a high availability domain ; wherein the first management component is configured to operate outside of the high availability domain and the second management component is configured**

to operate within the high availability domain; wherein the first manager component and the second manager component are configured to concurrently share management responsibilities for the software and/or hardware entity; wherein the first manager component and the second manager component are configured for individual management responsibilities ([0018], for example, line 12-15, "...a traffic manager, a provisioning manager and a signaling manager perform all broadband and narrowband...and connections for all network devices." In this scenario, the first manager component can be a traffic manager/signaling manager; and the second manager component can be a provisioning manager; and the software and/or hardware entity is the network devices. See also, FIG. 2; [0032], "...The core packet network and the physical network are managed and controlled by the signaling manager 16, the provisioning manager 18 and the traffic manager 20..."; [0068], "...The provisioning manager 18 is equipped with a redundant server for high availability..." where 16, 18 and 20 have their individual management responsibilities. See Figure 2, in one embodiment, signaling manager 16 is the first management component and provisioning manager is the second management component. Signaling manager has its individual management responsibility of controlling signals and provisioning manager has its individual management responsibility of provisioning the network. Since the provisioning manager is

equipped with redundant server for high availability. The traffic manger, for example, it not part of the redundant server and is therefore considered outside of the high availability domain.).

- Wherein the first manager component and the second manager component are configured to concurrently share management responsibilities for the software and/or hardware entity (in this scenario the first manager component and the second manager component function concurrently to share management responsibility).

As per claim 2,

the rejection of claim 1 is incorporated;

further Anderson discloses

- the first manager component and the second manager component are communicatively coupled ([0019], for example, "The signaling manager receives its working instructions from the traffic manage and from the provisioning manager...").

As per claim 3,

the rejection of claim 2 is incorporated;

further Anderson discloses

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- the first manager component and the second manager component coordinate the one or more first and second management operations to occur in a proper sequence ([0019], for example, "The signaling manager receives its working instructions from the traffic manager and from the provisioning manager..."; [0033], "...decide how to configure the logical networks on top of the physical network resources...").

As per claim 4,

the rejection of claim 1 is incorporated;

further Anderson discloses

- upon detection by the first management component of an event associated with the software and/or hardware entity, the first manager component sends a notification to the second manager component; wherein upon detection by the second management component of an event associated with the software and/or hardware entity, the second manager component sends a notification to the first manager component ([0021], shows monitoring of network event, [0018], [0019], show manager components communicating with each other.).

As per claim 5,

the rejection of claim 1 is incorporated;

further Anderson discloses

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- the software and/or hardware entity comprises one or more software and/or hardware components; wherein the first manager component starts up the software and/or hardware entity and the one or more software and/or hardware components; wherein the first manager component sends a notification to the second manager component to indicate that the software and/or hardware entity and the one or more software and/or hardware components have been started ([0020], for example, "provisioning element for non-real time circuits...performs...end point connections and port provisioning..."; [0018]-[0019]).

As per claim 6,

the rejection of claim 5 is incorporated;

further Anderson discloses

- the second manager component initializes one or more of the one or more software and/or hardware components; wherein the second manager component sends a notification to the first manager component to indicate that the one or more of the one or more software and/or hardware components have been initialized ([0020], for example, "provisioning element for non-real time circuits...performs...end point connections and port provisioning..."; [0018]-[0019]).

As per claim 7,

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the rejection of claim 1 is incorporated;

further Anderson discloses

- the software and/or hardware entity comprises one or more software and/or hardware components; wherein the first and second manager components cooperate to initialize, monitor, and detect one or more failures of the software and/or hardware entity and one or more of the one or more software and/or hardware components, wherein the first and second manager components dynamically negotiate the individual management responsibilities. ([0021]) .

As per claim 8,

the rejection of claim 7 is incorporated;

further Anderson discloses

- the first and second manager components cooperate to recover the software and/or hardware entity from the one or more failures ([0068], "...restored quickly in the event hardware failure...") .

As per claim 9,

the rejection of claim 1 is incorporated;

further Anderson discloses

- the first manager component sends a request to the second manager component to cause the second manager component to perform a management operation of

the one or more second management operations on the software and/or hardware entity ([0019]).

As per claim 11,

the rejection of claim 1 is incorporated;

further Anderson discloses

- in combination with the software and/or hardware entity, wherein the software and/or hardware entity operates outside of the high availability domain, wherein the high availability services software comprised the one or more second management operations; wherein the software and/or hardware entity interacts with the high availability domain([0068], line 2, "...provisioning manager...high availability..." see Figure 2, where provisioning manager employ high availability. Signaling manager 16 can be considered outside the high availability domain of provisioning manager.).

As per claim 12,

the rejection of claim 11 is incorporated;

further Anderson discloses

- the software and/or hardware entity is connected with the high availability domain to employ one or more of the one or more second management operations of the high availability services software([0068], line 2, "...high

availability...", see Fig. 2).

As per claim 13,

the rejection of claim 12 is incorporated;

further Anderson discloses

- the software and/or hardware entity is connected with the first manager component to employ one or more of the one or more first management operations and to prevent autonomous control of the software and/or hardware entity by the high availability services software ([0068], line 2, "...high availability..."; [0055], "The signaling manger has call exclusion rules for QoS rules on connections...", see Fig, 2, provisioning manager and signaling manager work together to accomplish provisioning the network. Therefore, there is no autonomous control.)).

As per claim 14,

the rejection of claim 1 is incorporated;

Anderson discloses

- in combination with the software and/or hardware entity, wherein the first manager component, the second manager component, and the software and/or hardware entity are responsible for one or more of setup and teardown of telecommunication connections ([0060], "...creating...and tearing down connections...").

As per claim 15,

the rejection of claim 1 is incorporated;

further Anderson discloses

- the software and/or hardware entity comprises one or more first software and/or hardware components and one or more second software and/or hardware components; wherein the first manager component controls the one or more first software and/or hardware components; wherein the second manager component controls the one or more second software and/or hardware components ([0018], for example, line 12-15, "...a traffic manager, a provisioning manager and a signaling manager perform all broadband and narrowband...and connections for all network devices." In this scenario, the first manager component can be a traffic manager/signaling manager; and the second manager component can be a provisioning manager; and the software and/or hardware entity is the network devices.).

As per claim 17,

the rejection of claim 16 is incorporated;

further Anderson discloses

- allowing the software and/or hardware entity to accept one or more first management operations from the first manager component and one or more second management operations from the second manger component, wherein the first and second manager components cooperate to initialize, monitor, and detect failures of the software and/or hardware entity ([0018], for example, line 12-15, "...a traffic manager, a provisioning manager and a signaling manager perform all broadband and narrowband...and connections for all network devices.", [0021], "...monitoring..."; [0058], "...provisioning..."; The examiner asserts that monitoring detect failures.)

As per claim 18,

the rejection of claim 16 is incorporated;

further Anderson disclose

- wherein the second manager component comprises high availability services software operating in a high availability domain, the method further comprising the steps of: operating the software and/or hardware entity outside of the high availability domain; and connecting the software and/or hardware entity with the high availability services software within the high availability domain ([0068], line 2, "...high availability...").

As per claim 19,

the rejection of claim 16 is incorporated;

further Anderson disclose

- sending one or more notifications between the first manager component and the second manager component to indicate occurrence of one or more events associated with the software and/or hardware entity ([0018], [0019]).

As per claim 20,

the rejection of claim 16 is incorporated;

further Anderson disclose

- wherein the software and/or hardware entity comprises one or more first software and/or hardware components, wherein the step of configuring the software and/or hardware entity for partial control by the first manager component and partial control by the second manager component comprises the steps of: connecting the one or more first software and/or hardware components with the first manager component to employ one or more first management operations of the first manager component; and connecting the one or more second software and/or hardware components with the second manager component to employ one or more second management operations of the second manager component and to prevent autonomous control of the software and/or hardware entity by the first manager component ([0018], for example, line 12-15, "...a traffic manager, a provisioning manager and a signaling manager perform all broadband and narrowband...and connections for all network devices."; [0068], line 2, "...high availability...").

As per claim 22,

Anderson discloses

- first manager component and/or the second manager component access a configuration file to determine the individual management responsibilities of each of the first and second manager components ({0074}).

Response to Arguments

In the remark,

7. Per Applicant's arguments related to Anderson failing to disclose "the first management component is configured to operate outside of the high availability domain", please refer to the revised rejections and new prior, the examiner withhold the rejections.
8. This application has been in prosecution for an extended period of time. Upon reviewing the invention, the examiner considers claim 13 contains limitations that are core to the invention. The examiner would like to suggest including specifics of how the invention prevent autonomous control of the software and/or hard entity by the high availability software. The examiner would like suggest a interview to discuss any possible way to progress this application.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Wang whose telephone number is 571-272-5934. The examiner can normally be reached on Mon - Fri 8:00AM - 4:00PM. Any inquiry of general nature or relating to the status of this application should be directed to the TC2100 Group receptionist: 571-272-2100.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Philip Wang/

Primary Examiner, Art Unit 2191